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Examining unawareness of construction law principles from a small contractor's perspective

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EXAMINING UNAWARENESS OF CONSTRUCTION LAW PRINCIPLES FROM A SMALL CONTRACTOR'S PERSPECTIVE

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This thesis is dedicated to my parents who have been my pillars of strength throughout my life.

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ABSTRACT

Shiralkar, Ketaki. M.S.B.C.M., Purdue University, March 2015, Examining Unawareness of Construction Law Principles from a Small Contractor's Perspective. Major Professor: Joseph Orczyk.

Construction industry encompasses myriads of small trades within itself. If we take a microscope and observe, what looks from outside as one big single unit, is in fact made up of many small cogs of a wheel, important ones though, as without them, the functionality of the industry wouldn't be proper. As much as the existence of these small scale contractor's companies is important, so is their survival. There have been many reasons as to why contractors fail, but this study is limited to focus on one of them, which is, the absence of legal knowledge among employees of a contracting firm.

During a short exposure to an American sub-contractor firm, the author noticed a potential hazard which could take the company down sooner or later. After brief interaction with the President of the company, and its employees, the author decided to delve deeper into this topic, and find out if

such was the case with other small construction firms in the state of Indiana as well. Interviews were thus conducted with employees who willingly came forward to participate. After compiling the data from the answers, a result was generated that there is a lack of legal education within construction companies and thus many face litigations which could otherwise be avoided.

In the end, a few steps have been suggested by the author, which if undertaken, could save a lot of money for the company, and at times, save it from bankruptcy too.

CHAPTER 1 INTRODUCTION

This chapter provides an outline of the research that was completed. It establishes the significance of the research problem, which is supported by additional information provided by the scope of study, its purpose, assumptions, limitations and the delimitations. Key terms are defined which help in a deeper understanding of the topic. Finally this chapter concludes with a brief overview of this project.

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1.1 Background

Money is the most important part of a contract, going hand in hand with time. So much as the planning, execution, and closing of construction activities cost, more money is at stake if any dispute comes into picture. A project being carried out in a smooth way is one thing, and experiencing hitches is another. Small scale construction firms which cannot afford an attorney, need to know the basic legal principles, and should know how to avoid risking their legal position. Not only breach of contracts, but claims for

delay, refusal to pay, negligence on the part of the owner, and many such causes of actions require legal advice. Such disputes become costly to resolve and in some instances, the cost of litigation exceeds the amount of money involved in the dispute. Such disputes aren't restricted to large companies dealing with high budget projects. It is common for these to be seen in a small company as well.

The small scale construction firm that the author worked for, once found itself in a problem where the employees were not well informed about the legal implications of any of their acts, and it became nearly impossible for them to afford an attorney and go to the court for advice. When the author became aware of this situation, she became motivated to do a thorough study on the legal courtroom structure as it applies to the United States construction industry, and how it affects its people.

1.2 Significance

As the author experienced on her jobsite, many employees at a small firm are not educated regarding legal issues concerning their work. Certain employees must be excellent at all the phases of construction, but in case of disputes, they seek the help of a legal expert. Many parties in a construction project, such as owner, engineer, architect, supplier, construction manager, subcontractor, etc. get involved in construction litigation. It gives a rise to

need to have a lot of documentation. So, in addition to the huge expense involved, this process also becomes time consuming (Samuels, 1996). An attorney thus becomes an important part of the construction process, as depicted in Figure 1.1. This study was targeted towards such small scale firms which can avoid getting themselves into trouble, if proper initiatives are taken to educate the employees. It will not only save time and cost, but also the extra documentation and paperwork involved which potentially gives rise to time overrun, change orders, and hence changing the contractual terms. Disputes were never, and will never be an easy way to get out of. The adage, "prevention is better than cure" applies well here.

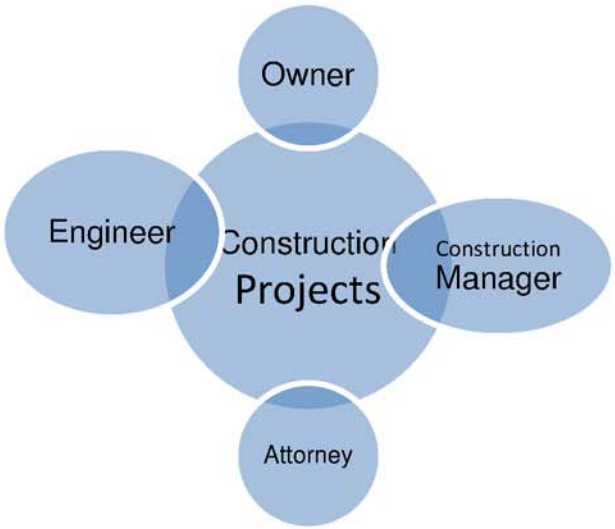

Figure 1.1 Important elements of a construction project

1.3 Statement of Purpose

The objective of this research was to understand the reason behind the lack of legal information for the workers at nine different small size construction firms, located in Indiana, United States. A detailed study was done on the background, experiences and perspectives of people who have worked there and found themselves a part of an avoidable dispute.

1.4 Research Questions

The central questions pertinent to this research were:

1. What is the attitude of the employees at a general contracting firm, towards breaching of contracts and the disputes that follow?
2. How do the construction attorneys approach such conflicting parties and what are their levels of stringency?
3. How can the workers be made more aware of the legal consequences of their acts, and what are the perceptions surrounding these activities?

1.5 Assumptions

The key assumptions in this research were:

1. Workers at the firms, who are essentially the participants for the study, have spent at least five years working for the firm.
2. In due course of their work experience there, the company had to face at least four litigations.

3. Being a small company, it does not have an attorney of its own.
4. The number of participants chosen for this study is sufficient to make the conclusion as intended.
5. Participants responded honestly during the interview process concerning their knowledge of the legal process as it applies to construction.
6. Participants will truthfully accept when they do not have any information about a question.
7. There will be no misrepresentation of information involved.
8. Participants are able to understand correctly, the interview questions, and verbalize their experience in the form of proper answers.
9. The research methods are pertinent to the research questions framed.

1.6 Limitations

Limitations associated to the research are:

1. The principles of construction law vary from state to state in the United States. This study focuses on small construction firms in Indiana, but the conclusions drawn may not apply for a firm in another state or country.
2. Many factors affect the quality of construction, such as materials, skilled labor, techniques, but this study focuses on those aspects which can be brought within the scope of law.

3. Only the information from a court case is published and known to everyone, but those issues which do not make it to the court, and are settled outside, sometimes remain confidential, and the workers would have only partial knowledge for those. Extrapolating the information given by them to form a trustworthy conclusion could involve risks.
4. This study will be limited by the amount of cooperation of the participants, their interest in the interview, and also their availability.

1.7 Delimitations

The following delimitations are inherent to this research:

1. The current employees at the firms who have been working there for at least five years.
2. A period of one month, during which the subjects are interviewed. This is a delimiting factor because all the interviews taken within one month guarantee that the author was in the same mental flow while interacting with employees.
3. The exposure employees got while working in the firm, because this becomes an important point that the company has faced litigations so that the interviewee can talk about that.

1.8 Definition of Key Terms

1. Contracts - Voluntary agreements between two or more parties that set out the rights, responsibilities, and liabilities of the parties to the contract (Stipanowich, 1998).
2. Voiding contract - Circumstances including mistakes, misrepresentation, duress, unconscionability, frustration and impossibility within the parties involved will void a contract (Stein, 2012).
3. Quasi contract - The contract becoming inapplicable as a basis for determining compensation by contractor, as a result of fundamentally changed conditions, mutual mistake, or abandonment of contract (Richter & Mitchell, 1982).
4. Claims-made policy - A policy in which coverage exists only for claims that are made while the policy is in force (Lambert & White, 1982).
5. Bonds - They are special form of contracts which are subject to additional rules of rights of subrogation (Jervis& Levin, 1988).
6. Lien - A claim against property registered in the appropriate land registry against title to the property (Bruner & O'Connor, 2002).
7. Litigation - The use of court system to resolve disputes (Lopez, 2006).
8. Mediation - An assisted negotiation process in which the settlement discussions are facilitated by a neutral third party (Fenn, Lowe and Speck, 1997).

1.9 Chapter Summary

Be it a multi-million dollar firm, or a small town in-house construction firm, disputes occur due to various reasons as shown below in Figure 1.2. This research used the tools of qualitative research methodology, which include observation of past court cases, interviewing workers about their experience, and forming focus groups of different class of workers in the firm. The method followed expected to highlight the reasons of unawareness among the workers of a general contracting firm about the legal aspects of construction practices. Studying the reasons, measures have been devised to work on the same, thus reducing the number of legal issues faced by a company, in turn saving a lot of money.

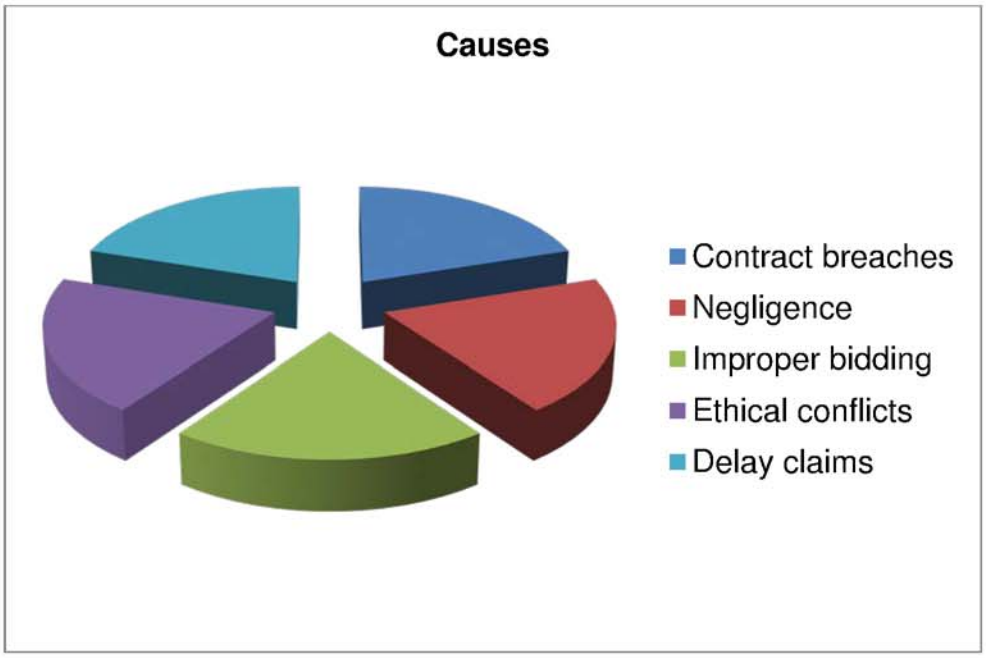

Figure 1.2 Causes of disputes in the construction industry

Source (Samuels, 1996)

CHAPTER 2 REVIEW OF RELEVANT LITERATURE

The research presented in this chapter is unique because not a lot of work has been done in this area previously. This chapter includes a study of the literature that defines the basis of the research. The first few sections discuss the importance of law as it applies to construction. Later the chapter describes the risks, costs, and issues involved in constituting a law body as a part of a small scale firm.

2.1 Legal Issues in Construction

Law remains an integral part of any construction process. Mostly issues arise in the construction industry due to contract law. Issues also arise due to agency law, where agents are owner representatives like an engineer or an architect. A contract helps bind everything together as shown in Figure 2.1. When there is an absence of contract between parties, the claims that arise are known as tort claims, for instance negligence claims, intentional torts, strict liability and improper submittal claims. As noted by Stein (2012), according to legal terms, a contract is a promise that the law will enforce. It is not formed unless both the parties agree to the same terms. The offeror must

make an offer to which the offeree shows acceptance. The original offer loses its validity if the offeree does not accept it, but rather provides a counter argument. A contract does not achieve validity unless the same offer is agreed upon by both parties.

The contract does not account for all the possible issues which develop in the due course of a construction project. When a dispute ends up in a court and the contract terms are insufficient to resolve it, the court typically resorts to the standard rules that have been developed over the years through case law. Singer & Singer (2012) have emphasized the fact that contractors at small construction firms need to understand the importance of contract interpretation. They should know what the intent of the parties was at the time when the contract was made. Sometimes, when the language of the contract gets tricky, the courts often look at what the meaning is, as expressed by the language, instead of referring to the subjective intent of the parties. There, courts enforce unambiguous contracts according to the interpretation they derive of plain meaning of words.

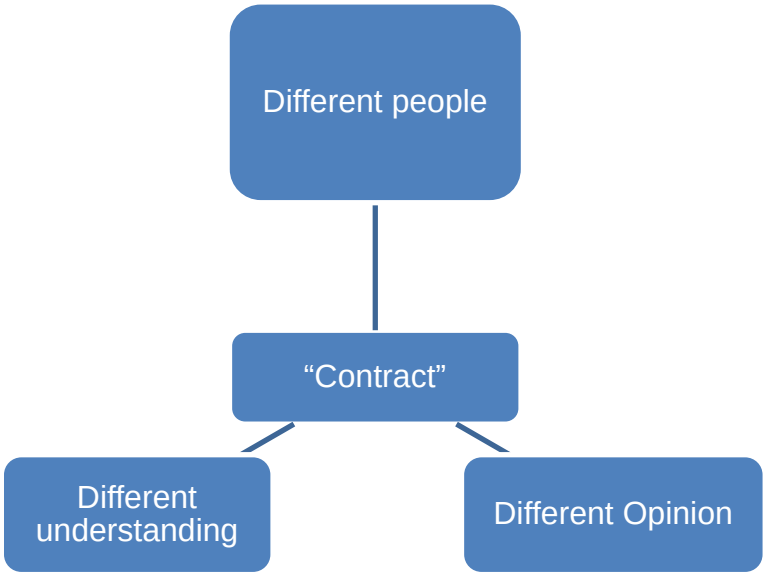

Figure 2.1 The binding nature of contract

2.2 Conflicts Between Contract Documents

The contract documents describe the work to be performed by the contractor and the relationship existing between the owner and the contractor, as the work defines. The owner contract agreement, the general and special conditions for construction, drawings from designers, and modifications constitute the contract documents. Inconsistencies are inevitable given the number of documents included in the contract. One way that this issue has been handled is by defining a hierarchy for contract documents, with modifications and change orders having the highest priority, special conditions governing over general conditions, drawings governing over specifications, and the large scale drawings governing over

small scale drawings, as clearly mentioned by Jervis and Levin (1988). Contrary to this, Harmon (2003) has pointed out that a preset document hierarchy might not be as useful, if there were to be an error in the document with highest priority. There would be conflicts over what to refer to in that case. Mostly, the bidding instructions on projects require the bidders to request clarification of obvious discrepancies in the bid documents before the submission of their bids. This is known as the patent ambiguity rule (Stein, 2012). As this rule goes, the contractor that makes erroneous assumptions about a discrepancy would be held responsible for any extra costs. The owner may or may not have to prove that the contractor actually knew of the discrepancy depending on the contract language. However, when a contract hierarchy is indicated in the bid documents, some courts have suggested that bidders are entitled to rely on the hierarchy. The typical hierarchy as mentioned by Jervis & Levin (1988) is shown in Figure 2.2.

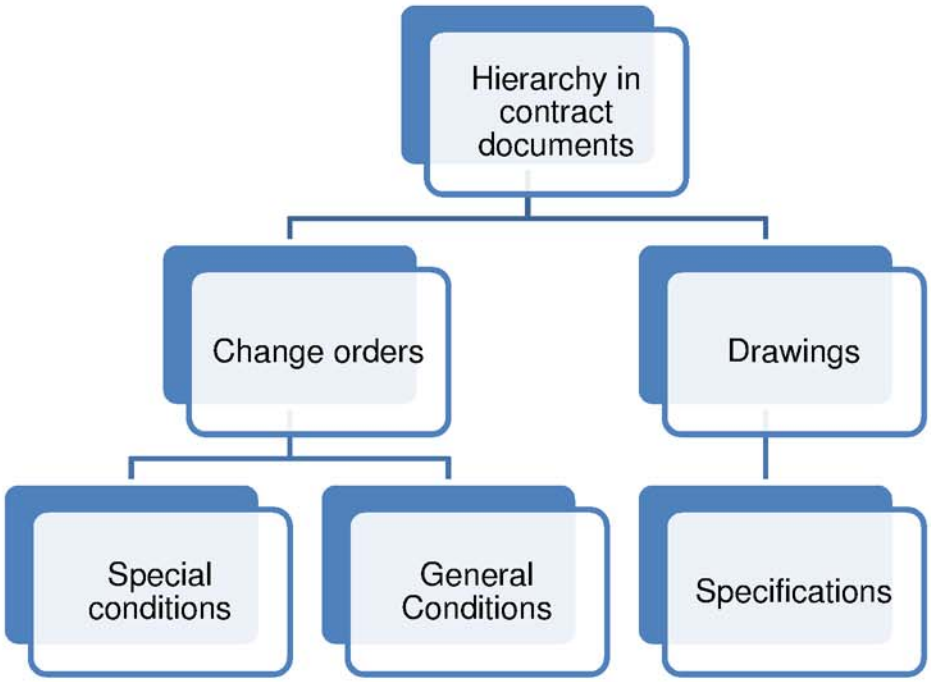

Figure 2.2 The hierarchy in contract documents (Jervis & Levin, 1988)

2.3 Liquidated Damages

According to Lopez (2006), plaintiff's damage is, "the amount of money awarded to a plaintiff who has prevailed on a claim of loss or injury." The rationale that goes behind the determination of appropriate damages is called the measure of damages. Generally, the damages are measured at the time when the contract was breached, as the rights of the parties are fixed at that time.

The contract may contain a liquidated damages clause in addition to requiring the owner to calculate and prove actual delay damages. It

postulates that the contractor will be charged a specific amount per day of delay. Many of the standard industry form contracts include a mutual waiver of consequential damages. But the waiver typically would not prevent an award of applicable liquidated damages (Zaghloul, R., & Hartman, F., 2003). Liquidated damages specified for a delay include consequential damages, and such damages are recoverable even when a consequential damage waiver is included in the contract (Eggleston, 2009).

The contractor, often times, is not able to differentiate between the costs resulting from a particular owner-caused delay. This holds true particularly for those cases when the delay has impacted a large number of activities and thus a loss of productivity is incurred. A general method of estimating the damages might be the option what a contractor may look at. Also, when there is an unexpectedly longer delay to a project, work that had to be performed later than when it was originally scheduled to be performed, is likely to cost more at this time than what was originally estimated, because of the increase in material, equipment, and labor costs over time. In such cases, the contractor may be able to recover the difference in present and predicted costs, if the cost increase can be documented with reasonable certainty (DiMatteo, L. A., 2001)

2.4 Extension of Time Clauses in Contracts

The effect of extending time is to maintain the contractor's obligation to complete within a defined time and failure by the contractor to do so leaves him liable to damages, either liquidated or general, according to the terms of the contract (Alshawi & Hope, 1989). When the extension provisions are not mentioned, it is the contractor's obligation to complete within a reasonable time. The contractor's liability may be for general damages but it must be proven that he has failed to complete within a reasonable time. It is common to believe in construction that extensions of time are solely for the benefit of the contractor because they give more time to the contractor to work and also reduce his liability for liquidated damages. Often times, it is the owner who has most need of extension of time provisions, not the contractor. It has been confirmed that the courts will not uphold liquidated damages where the owner has prevented completion on time unless there is express provision in the contract to extend time for the owner's default (Ikpe, 2009). Although, it has been argued by Williams (2003) that the general rule says that the main contractor is bound to complete the work by the date for completion as stated in the contract. Failing to do so, he will be liable to the owner for liquidated damages. Whereas, if the owner were to prevent the contractor from performing on time, by his acts or omissions, then the previously stated law would no longer hold. The contractor would not be liable to the owner for any liquidated damages in that case. Neutral events which are not the fault

of any party, war or riots, force majeure, or God's acts which would otherwise put the contractor to risk, are also included. Thus the contractor is given relief and such cases the extension of time clause would operate to the benefit of the contractor. In practice, contractors prefer extensions for events which they see are reimbursable, rather than neutral events, because they see a possibility of extracting money there.

2.5 Prevention

The principle of prevention is of general application in contracts and is to the effect that one party cannot impose a contractual obligation on the other party where he has impeded the other in the performance of that obligation (Lopez, Love, Edwards, Davis, 2010). Prevention affects the innocent and the guilty party in separate ways. The innocent party has the right to sue for damages if the act of prevention is primarily a breach of contract. This is a rule of law. But the restrictions on the guilty party to limit enforcement of contractual rights seem to arise from implied terms than any rule of law. This is the most effective and most used defense against liquidated damages. It does not matter whether this principle of prevention comes from a rule of law or implied terms. The extension of time clause should provide clearly for an extension on account of a fault or breach on the part of the employer if he wishes to recover liquidated damages for failure by the contractors to complete on time in spite of the fact that some of the delay is due to the

employers' own fault or breach of contract (Yogeswaran, K., Kumaraswamy, M. M., & Miller, D. R., 1998).

2.6 Disputes in Construction

Give a task to a group of twenty people, and you are sure to experience different outcomes, sometimes conflicting. Some people understand differently, some comprehend in different ways, whereas some vary in presentation. This difference in opinions shall exist, as long as there are people involved. Similarly, construction is a people based industry. To get down at the basic level, when several parties join hands together with a goal of building an outcome, or bringing a plan to life, they comprise what we would call the representatives of the construction industry- the one who desires the outcome (owner), the one who helps develop a plan (architect), and the one who promises to build (contractor). Basically, these three bodies are sufficient to construct a project, but with the growing and increasing scale of projects, there arises a need for the one who manages the three previously listed bodies (construction manager). Since these bodies are comprised of people, and it is natural for a conflict in opinions to arise when there are people involved, hence, the disputes arising in construction are an accepted fact.

Not only are the disputes costly to resolve, they require more manpower, sometimes outside the scope of the firm. This is when a need for litigations arises. The firm not only has to cover for the amount of money involved in the dispute, but also for the time and resources involved. One of the resources is the construction attorney. “Time is money” is an adage so appropriately describing a big sector of the construction industry. Nobody likes a delay in their work. Everyone wants the project to be finished on time and for the client or the owner to have his building ready on the date promised. More the delay, more money is lost. Materials and labor laying on the site with no activity to consume them for, because the activity had to be paused, delayed, or rescheduled due to the dispute, also are a source of money going down the drain. Other than the parties involved, a large number of documents have to be generated as a part of the litigation, which again requires manpower to handle the same.

2.7 Litigation

When it becomes impossible for the parties to resolve the dispute on their own, they need to seek legal help. When the court system comes into the picture of resolving a dispute, this process is termed as litigation (Arditi, D., Oksay, F. E., & Tokdemir, O. B., 1998) It could have both positive and negative impacts on the whole dispute resolution process. The positive side is that law from the court will see to it that a fair decision is made on the

basis of evidences shown. For the parties which were previously reluctant to participate, or which did not have any knowledge of resolving the dispute themselves, court comes to rescue. The biggest disadvantage of litigation is that it is expensive. Each party has to hire an attorney, and there are always hidden costs for case preparation and the trial. Once litigation is initiated, it may continue for months or even years. The pros and cons of litigation are listed in Table 2.1.

Table 2.1 Pros and cons of litigation

Pros	Cons
Useful when one of the parties is a reluctant participant	Costly with hidden expenditures (case preparation & trial money)
When there is no good faith between two parties	Requires an attorney, and a witness needs to be produced
When the intent of one party is just to take advantage of the time/create delay to recover more money	Employees tied up for long periods
	Can take years for verdict

2.8 Alternative Dispute Resolution

All parties want to utilize the most efficient way to resolve their disputes. Litigation is time consuming, expensive, and risky. The plaintiff might not always win the case even if all evidence points towards him. The jury could be sympathetic to the other party thus the results might not be based on a fair judgment. Because of the cost and delay associated with litigation, many owners and contractors are pursuing alternative dispute resolution (ADR) methods, which mostly do no not necessitate the need for a lawyer, thus saving a lot of money there. This should specially work for the small scale firms, who are trying to cut down on extra money, additional to the amount in question of dispute. Arbitration and mediation are the most common alternate dispute resolution methods.

2.8.1 Arbitration

Disputes are a very predictable part of a construction project, thus their quick resolution can be crucial in deciding if a project is on its way to success or not. If disputes remain unresolved, they create uncertainties which can hamper the progress of the project and also disrupt the cash flow. It is not a very good idea to postpone the dispute resolution until the project nears completion, because it becomes more difficult and expensive to establish relevant facts and events (Stipanowich, 1996). Arbitration is the

voluntary submission of disputes to an independent third party. This method is adopted when the two parties in question are genuinely interested to resolve the dispute, when they hold good relations and have good intentions about solving the dispute.

There is a clause for arbitration in some principal contracts, requiring the parties to decide in advance if they would want to opt for arbitration, if the need arises. This practice is prevalent in the construction industry for many years. The two parties, whose consent to arbitrate is sealed in the contract, choose the independent third party who they want to act for as an arbitrator. Even though it is an alternative to litigation, the judicial system will enforce arbitration decisions. Now considering the cost of arbitration, although they ultimately depend on the parties and the scope and complexity of the issues, the fact that arbitration is generally much quicker than litigation typically means it is also less expensive. There are certain costs that cannot be avoided, however. These include the costs incurred in preparing for the hearing such as each party's examination and analysis of its own documents, legal research, expert witnesses, the development of demonstrative evidence, and limited discovery of the other party's evidence.

There are also costs that are unique to arbitration, such as the arbitrators' fees and expenses, administrative fees such as filing fees, and the cost of meeting rooms. As Lambert and White (1982) analyze that the cost of arbitration can increase significantly if the responding party refuses to

cooperate or challenges the scope or validity of the arbitration agreement in court. Nevertheless, the brevity of the arbitration proceedings and the savings that result from limiting discovery make arbitration less expensive than litigation in most cases.

2.8.2 Negotiation and Mediation

Negotiation does not have any hard and fast rules. It is best learned through experience (Samuels, 1996). It would be helpful for one to learn how to be an effective negotiator, learning various techniques and strategies. Alternatives always exist to a negotiated settlement. Litigation is one of the alternatives, another one is doing nothing. This is an approached to be used when both parties are comfortable with the fact that no settlement will be agreed to that is worse than the alternatives themselves. In such a process, there is no uncertainty, and cost involved is also less.

When the settlement discussions are facilitated by a neutral third party, this process is called mediation (Brooker, P., 2009). A genuine desire for the parties to reach settlement is a must. A representative of each party, and a trusted mediator, then come to a conclusion. This process has proven effective in complex as well as simple multiparty disputes.

If no settlement is reached, the information given by all the parties and the mediator is protected by privilege, i.e. it cannot be used as evidence in

subsequent proceedings. Since the parties have a genuine interest at heart, this form of negotiation increases the chances of a settlement as the parties tend to be open with each other (Gray, J., & Jesson, D., 1990).

2.9 Chapter Summary

The chapter discussed various legal facets of the construction industry. Different issues were addressed and ways to overcome those were suggested. Reviewing all the papers and journal articles that the author could gather for this research topic, she didn't find that much work had been done in this field before. The escalating cost of litigation, and even settling, disputes provides the parties with an incentive to prevent disputes from arising. If prevention is indeed better than cure, the biggest means of dispute prevention is for contracts to allocate risk realistically by assigning a risk to the project participant that is best able to manage, control, or insure against the risk. When the contract allocates risks to project participants that are unable to handle them, even relatively minor problems can lead to disputes that jeopardize the project.

The results of review of literature provided that, introduction of new means of legal education for employees of a small scale construction company could prove beneficial and applicable to this case and also one which can be easily implemented for construction firms of all magnitudes. This is

particularly helpful for the small scale firms because of the fact that it takes into account those contractual parameters which otherwise are not important for a large firm, where other factors dominate. The topics discussed in this chapter are briefly summarized as shown in Table 2.2.

To further support the results of the literature review, interviews were conducted with employees of small construction firms located in Indiana, where they were questioned about their experiences in the company. The questions and answers are described and discussed in detail in Chapters 4 and 5.

Table 2.2 Types of legal issues faced by a small construction company

Types	Remedies
Conflict in contracts	Case law, Litigation
Liquidated damages	Arbitration
Time extension clauses	Negotiation and Mediation

CHAPTER 3 METHODOLOGY

This chapter will describe the research framework, sample set, the data collection techniques involved, and the measures of success of the study. In conclusion, the chapter discusses triangulation of data sources pertinent to the study, thus providing a summary of the methods adopted to execute the research.

3.1 Research Framework

Having worked in a small firm in the author's home country, and also one in the United States during the short period of internship, queries about legal issues being a threat to the existence of a company popped into the author's mind. Questions like, 'Why is legal help so expensive?', 'Why can't the employees educate themselves about legal issues?', 'Is it fair that when two parties have a contract with each other, one of them being particularly powerful can oust the weaker one?', 'Is it fair for two such parties to make a contract with each other?'. To find the answers of these "whys" the researcher

carried out a qualitative study which was expected to provide answers to the research questions. The approach towards this research involved using the triangulation method, as shown in Figure 3.1.The construction firm which the author worked for, was a small scale company, located in Indiana. It was established twenty-five years ago. The employees of that company, in addition to more employees of other companies, were interviewed about their experience both personal and with the company, in regards to construction. The main assumptions involved were that the employees would have worked for that firm for at least five years, so that they would be able to give better answers about the firm rather than guessing and providing misleading information. They were questioned specifically about what legal issues they faced, if they were avoidable, how much money did they lose, and if they ever decided to bring a change in the system. The study specifics are as shown in Table 3.1.

Secondly, case studies were an integral part of this thesis. Reviewing court cases and legal issues related to construction was the central part. The author did not restrict herself to issues as they related to small firms, but studied legal issues as they related to construction as a whole. A limitation was that though only small percentages of disputes found their way to the court, the other disputes did not reach the court, and were not published or available to the public. So the author could be missing on some important data points there. It was planned to focus less on the cases about which

less information was available, and more towards those which were published.

For the in depth knowledge of what went wrong in case of a conflict, the author studied contracts, i.e. if they really created a meeting of the minds, or if they were a piece of paper in twisted language. Trends in the failure rates of companies owning small businesses were noted. Thus, examination of documents, interviews and case studies constituted the methods adopted to answer the research questions comprehensively. This study required an exemption from the Institutional Review Board (IRB) under the Human Research Protection Program. This was needed because the researcher was planning to speak with employees of construction firms, about the ways that they were doing business. Their answers and identities needed to be protected. Exemption from IRB for this study was granted on July 24th 2014. A brief research timeline is shown in Figure 3.2. Thereafter, the data collection process began. Emails were sent to small construction firms in Indiana. Small refers to the definition set by the US Small Business Administration. In construction, a company is said to be small if it has less than 500 employees and its average annual receipts are less than $15 million (https://www.sba.gov/content/summary-size-standards-industry-sector). The limits for various sectors in construction are as shown in Table 3.2.

For easy visual understanding, the author has put her steps of research methodology into the Figure 3.1 as shown below.

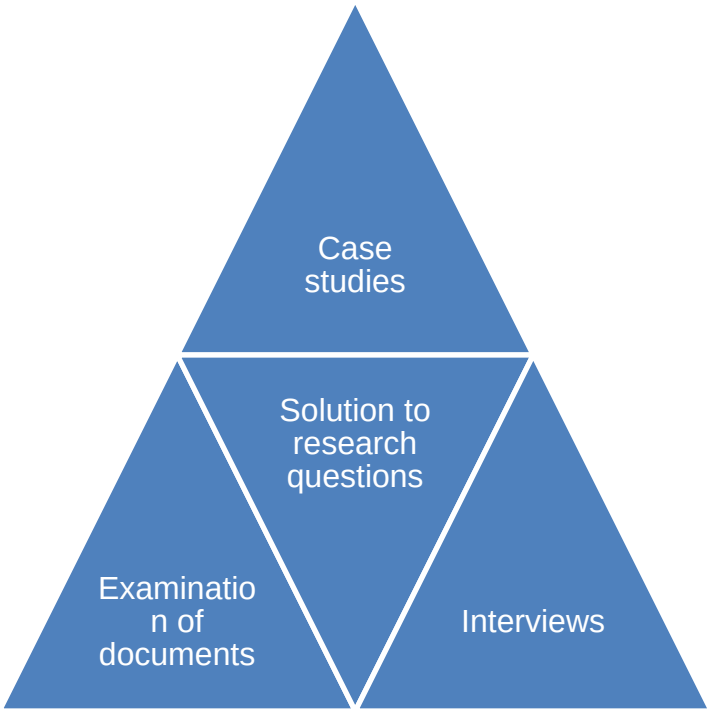

Figure 3.1 The triangulation process of methodology

Table 3.1 Specifics of this study

Participants	Work experience	Lawsuits faced by company	Age of company
A least 50	5 years or more	At least 4	12 years or older

Table 3.2 Definition of small business by SBA

(www.sba.gov/content/summary-size-standards-industry-sector)

Type of industry	Deciding factor (average annual receipts worth)
General building and heavy construction contractors	$36.5 million
Special trade construction contractors	$15.0 million
Land subdivision	$27.5 million
Dredging	$27.5 million

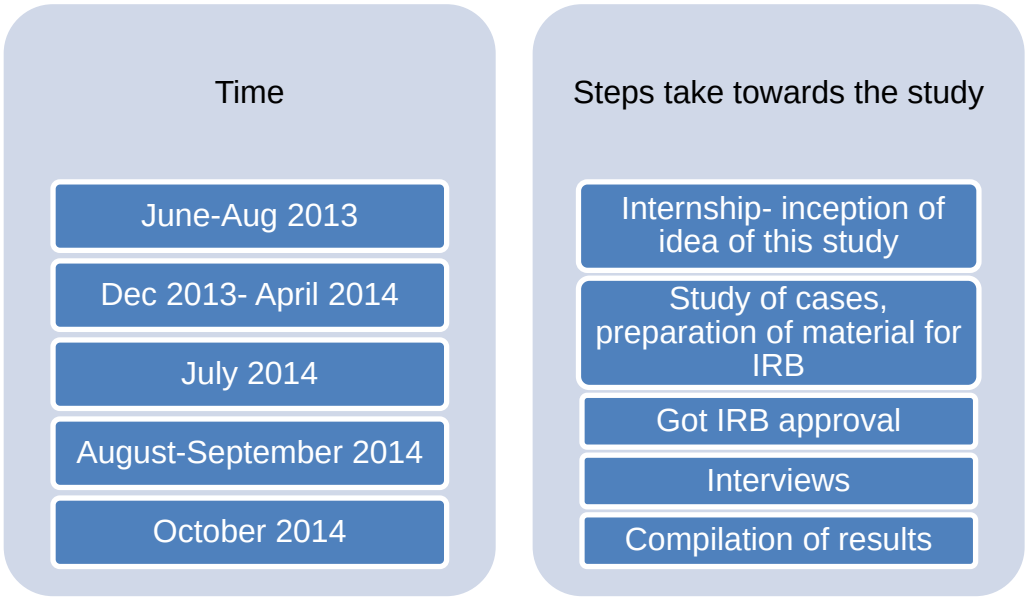

Figure 3.2 The research timeline

3.2 Sample set

The author had brief casual discussions with nearly ten employees at the firm, those with minimum five years of experience there. The author also intended to have discussions with five more businesspersons like owners, architects, and designers, all working for a construction firm. All these people essentially constituted the sample set.

3.3 Measures of Success

Success of the research was measured by:

1. The completion of interviews at the chosen firms
2. The relevance of comparing the writings and if they helped me formulate a strong theory.
3. If the steps derived from the result of this study could be conveyed to existing small scale contractors in Indiana, and they genuinely implement the suggested measures by showing timely recognition of legal issues by the employees.
4. If, the small scale construction firms would later start legal awareness as a part of welcome-training packet to the new employees as well as the existing ones, and incorporate all the suggestions provided at the end of this study.

3.4 The Study

Interviews are a method to collect data in which one person (the interviewer) asks questions to another person (the respondent also known as the interviewee) either face-to-face or via telephone (Polit & Hungler, 1991). The study was conducted by the author to have some knowledge on how the contractual processes worked in small scale construction firms. The primary idea was to learn how many employees were really acquainted with the concepts of law, and how many thought that their company could survive on the sole basis of skilled personnel. As this was a qualitative study in which the researcher was trying to examine the reasons behind unawareness of basic law principles within the employees of a construction company, with the aim of improvement towards this field, it was important for the researcher to select a sample who could express their experiences in a lucid manner and thus enhance her understanding of the concept. The researcher wanted to interview people from the design and management teams of the firms.

3.5 The Approach

Every possible measure was taken to comply with the IRB regulations. Since this was an initial stage of inquiry, it was important to note that respondents with little knowledge of the concept would have been redundant

at this stage (Field & Morse, 1985). Thus, to filter companies worthy of strong response, their age was looked into by contacting the HR representative about the same. It ranged from six years through twenty seven years. The companies which were into the construction business for over twelve years were selected for the interview, and invitation emails were sent out.

The researcher approached individuals from twenty-five small scale construction companies via email where it was specified that no one was obligated to reply or participate in the study. They were told that their identities and responses would be completely protected. Nothing would be published in their direct words, and nobody would be able to identify them on reading any part of text which resulted from their interview. They were also informed that the author would keep their meeting confidential, and would not discuss it with their colleagues. This measure was taken in order to ensure that the interviewees had no pressure in answering the questions and thus an assumption could be made that their responses were accurate, and would contribute towards the main purpose of the study. Moreover, the researcher had to assume that the information given by the interviewee was accurate, since interviews are a form of self-report (Burns & Grove, 1987).

Out of the twenty-five companies that were approached, nine responded positively, with being able to schedule an interview within the time window requested. The interview format consisted of twenty-six questions (

Appendix A) framed in a way that any employee who had been a part of the company for the last five years, could comprehend and answer. The interview schedule was made semi structured in order to facilitate new ideas and questions to be brought up as the discussion proceeded. It took approximately fifteen to twenty minutes to go over these questions with each respondent. A total of fifty-three people were interviewed. Measures were taken to ensure that they had been working at the firm for at least five years, by simply asking them. Their response was taken as a confirmation. Many people had similar answers; the range of all responses has been paraphrased and listed.

3.6. Chapter Summary

The chapter provides framework that was used for this research. It describes that the employees of the firm and some independent people who were part of the sample set. Lastly, it lists the measures of success.

CHAPTER 4. PRESENTATION OF DATA

4.1 Responses to Interview Questions

The list of all questions and answers is provided in Appendix A. The types of questions asked to the interviewees were divided into various categories as shown in Figure 4.1.

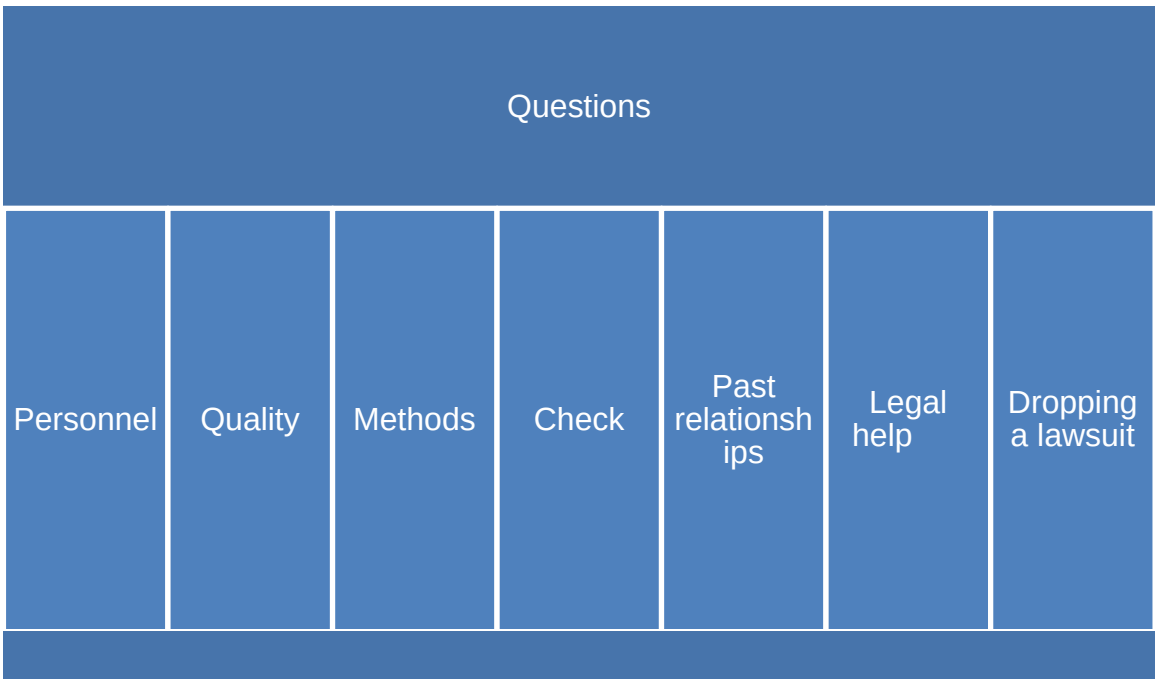

Figure 4.1 Classification of types of interview questions

The main responses to the interview questions are as follows:

1. Does your firm have a contracts manager who is well versed with the construction terminology?

- No
- We do have someone who looks over the contracts
- The account manager here reads the contracts
- The President goes over all the incoming contracts by himself. He doesn't trust anyone else to understand the language.
- Yes
- We have a person designated as a contracts manager but his main focus of work is something completely different. He scrutinizes the incoming contracts along with the Project Manager but how well versed is he with the terminology, is beyond my knowledge. I'm doubtful because he had a degree in accounts.
- We have couple people who point out the major areas in the contracts which our firm should be aware of, such as bonds, terms of payment, etc., but they do this in addition to their own work, as we don't have enough workforce. If they are too busy, this work is handed over to the HR.
- We don't have any person who reads a contract. We do have the administrative assistant thought who keeps record of all incoming contracts.

A good majority of the people i.e. 72% of the interviewees answered that they had a person appointed in their firm to look over contracts. Their

knowledge though, about the person being well versed with construction terminology was limited.

2. Who reads through the contracts before signing? Is it the contracts manager/ construction manager/ account manager/ contract manager/ HR

- Usually it’s the construction manager
- Contracts manager
- Project Engineer
- Project Manager
- Project Coordinator, or the HR at times
- Project Executive
- Its either the Construction manager or the President
- President, or the Assistant of the President
- Project Administrator

Answers were different for different firms, but mostly people said that someone from the project management team would read through the contracts. Contracts manager was answered by the people of the firms who had one.

3. On average, how many bid invitations do you receive each month?

- Varies for each month, some months are slow because of weather or slow business periods.
- Do you mean bids only related to our specialization or outside of our scope of trade as well. We get some non-related bid invitations also
- The range of answers was from ten to twenty-five.

  The answers were for the peak months, as different months are different when it comes to the volume of incoming projects. Since this is the Midwestern region, there are limitations over outside work being avoided in certain periods. Just for instance, many companies stipulate in their specifications of work that concrete work will not take place after Dec 15th through March 15th, to avoid the troubles of cold-weather concreting. Similarly, interviewees agreed that the answers for all months would vary, thus they gave me the maximum range that they received at any point in an year.

4. Who proofreads the bid proposals before they go out of the door? Sometimes we ourselves use elusive language giving the General Contractor (GC) or the owner a chance to get back at us.

- Generally, the Project Engineer puts the bid together and sends out of the door himself. We don’t have anybody else proofread it unless the Project Engineer is newly hired without prior experience. In that case, someone

senior in the office looks at the bid. It could be the vice president of operations, or the scheduler, or the assistant of the President.

- President
- Project Manager
- Project Manager/Estimator

For majority firms, the answer was project engineer. For very small firms (15-20 employees), the answer was the President of the company. The answers for this question were similar to those of Question No. 2.

5. What do you do if you find a conflict in the language- a mysterious term/sentence that you did not much understand? Does anyone point out that doubt in the contract?

- When someone brings out the doubt in the language, we casually discuss it with our colleagues, if anybody knows what it means.
- No, because that is a piece of paper which does not affect our work.
- When we don't understand a term, we ignore it.
- If it's regarding a small thing, we ignore. But if we think it's a big or an important thing, we try to schedule a telephonic meeting with the GC/ owner's representative to discuss.
- We never paid attention to that before once it affected us so badly that we lost a lot of money in the lawsuit that followed. Since then, we've had someone come over and train some of our staff on these matters.

- We drop an email to the owner when we see something doubtful, but nevertheless, we go ahead with our work
- If we point out an issue, we stand a risk of losing work.

The most common answer to this question was no. They said, if they did not understand something, they felt it did not concern them. Only a chosen few said that they would bring up this issue and discuss with the other party. Many also said that they did contact the owner or the GC for further clarification, but did not wait for a response and arranged for the work to begin. Which clearly indicates that they did not know the importance of the contract being clarified before accepting the work.

6. What response do you receive when you ask the GC or the owner about some doubtful language in the contract? Does he address the questions or does he try to avoid answering them?

- Seldom do we call back and ask- we don't mean to negotiate on the contractual terms. A contract, for us, is like a green signal to proceed with our work at the jobsite.
- A meeting is arranged either on the phone or in person if time and conditions permit, for us to discuss the doubtful language in the contract. Some GCs are not very happy about that though. They try to use tricky words so that everything shall be favorable to them in case of a dispute.

- We've had mixed experiences with calling back the GC, sometimes we get a good response and sometimes are doubts are not addressed to properly.

  Some people said they never enquired back about the doubtful language. Some said that they would call or email requesting a meeting for clarification. Sometimes they did get a satisfactory response whereas sometimes their issues were not addressed to. Some people did not answer, as they were not sure about it.

7. If needed, did he eagerly change the wordings where you would feel comfortable signing the contract with him?

- Whenever there is a change required, it never happens eagerly. If at all a change is agreed to, there usually must have been several conversations before that. At times we try to avoid all the hassle and thus don't want to bring up the issue.
- No
- Rarely
- Nobody has ever been happy about change

  The most common response to this question was no.

8. How often do you sign the doubtful contract just to get the work awarded and make "some" money out of it?

- Very often
- Quite a lot of times, especially when the project is big.
- Sometimes, it depends if it's a repeat customer

It was a 50-50 response to this question, almost half of the people responded saying that they needed work, and they thought chances were less that anything would go wrong, hence why did they need to pay attention to the terms.

9. Were proper change orders/ extra work orders issued when/if needed?

- Yes
- No, often times we are required to start work with the word of receiving the change order request later as it is only a formality.
- It depends on our mutual relationship. If we have worked with a client before, we agree to proceed with the work without written requests.

Majority of the people had answered that they would agree to perform the extra/changed work because of time/schedule issues. Not always was it possible to move the crew to the jobsite, after the document was processed. They believed that the official work will be taken care of by itself, parallel to their team's work on the site.

10. Who did you deploy to supervise the work at the site?

- Foreman
- Superintendent
- Project Manager
- The head of the crew in absence of project manager

Majority of people (51%) said that they had their superintendent at site monitoring the work. Few others (35%) said that their foreman was their supervisor at site. Only four people responded saying that their Project Manager used to be on site all the time thus negating the need for any other supervisor. But couple of people also responded saying that their crew guys managed themselves and the work.

This question was asked with the intention of knowing if there was any supervisory staff at the site. At the firm where the author worked over the summer, a peculiar situation was encountered. One of the crew members ended up doing work for another subcontractor at the site. When he added those extra hours on the time-sheet, the Project Manager became aware of the situation. Later, it was a topic of much heated discussion in the office, whether that particular crew guy should have been paid for that extra work, or not.

11. Was there an authority to handle questions on the contract?

- On the site, no, contract terms or problems never make it to the site.
- No, is that even needed?

This was a redundant question, as I realized later, because all the people told me that the contract documents never found their way to the jobsite. They were handled in the office and had no relation whatsoever to the superintendent or the foreman on the site. The only documents they were concerned with were the construction drawings.

12. Does the subcontract include a “pass through” clause that incorporated the prime contract requirements into the subcontract?

- Yes, at times.
- No

Only a couple of the firms said they had a pass through contract, rest had never experienced that before.

13. Did the contractor provide a copy of the prime contract with the subcontract? If not, did the general contractor provide it when requested?

- No, yes.
- No, we only receive the subcontract. We do not request for the prime contract as we are only concerned with the subcontract.
- Yes, if we request, we do receive the prime contract, at times with a lot of delay. But it is not provided with the subcontract.
- Yes it is given with the subcontracts.

Although majority people said that they never had a problem getting the prime contract when asked for, only a few actually asked for it.

14. Do you check that the subcontract amount is same as bid amount?

- Yes
- Yes, we always check that
- We always try to, but there has been a case last year when it got overlooked.

The focus of this question was, if someone checked the amount listed on the incoming contract, to make sure that it was same as the number sent out in the bid. All of the interviewees replied saying yes to this question, except for just one who expressed that once they had overlooked this step and there was a problem later.

When asked about the situation, this interviewee elaborated a little. The general contractor had agreed for the alternate bid provided by the interviewee's firm. But when the contract was awarded, it had the base bid amount listed on it. At first this got overlooked, then when noticed, it created confusion, but later after checking, it was deduced that the contract indicated something else, and the work that they had agreed to perform was different. Since this happened with an old client of the interviewee's firm, with whom they shared good relations, it could be corrected easily.

15. Was any work at the site started without receiving a subcontract, on the basis of a verbal agreement?

- Yes
- If we know the client well enough, we go by the word.
- No, we always wait for the contract/ purchase order to come in first.

Majority firms had the common answer yes. Their reason was that as time and schedule permitted, they would start work especially if the customer was well known.

16. Were any changes agreed to but not documented in writing?

- Yes
- Mostly we try to document everything, but yes there have been cases when small changes were just done on someone's word, and there was no written documentation made.

90% of the firms replied that they always have documented the change in scope of work. It might not be done timely, but sooner or later it has been done.

17. Does the relationship with a past customer affect your decision of questioning a contract?

- Yes

This question was only applicable to those where repeat business was being talked about. Everybody had a good relationship with a past customer, the fact that they were coming back to them for work proved it. The employees were skeptical about questioning the words of a contract with the fear that they might stain their relationship or risk losing the job if the other party did not agree to change terms. Which again clearly meant that the importance was wording wasn't known completely.

18. Has any work been discussed/ approved over meetings involving alcohol?

- Don't know
- Maybe
- There have been work related discussions in after office happy hour meetings. Sometimes we make verbal agreements about work, be it during office hours, on the site, or in a meeting outside of office.

The common response was that either people did not know or were not sure how to answer this.

19. In the case when legal help was required, did you have a lawyer of your own firm, or did you have to approach one from outside?

- We did not have a lawyer

- We had a lawyer but still had to seek external help
- We had a lawyer

People from six companies out of nine said they had a lawyer, and from three said they did not. One of the firms had to seek advice of an external lawyer as well.

20. Did you have to drop a lawsuit because you didn't have enough money for the attorney fee?

- Yes
- Not only were we short of attorney fee, but also the cost of litigation was becoming overwhelming for us.
- No

Five firms replied that they had to take back their cases or negotiate for no settlement just so as to not lose more money.

21. Did you have a feeling that there were unethical methods involved to win the case?

- No
- Yes, we felt that there were misrepresentations from the other party

Only two firms replied saying that they had a doubt regarding methods which the other party was using in the litigation.

22. Did you also feel that the opponent was paying his lawyer to destroy evidence which would make him lose?

- Not sure about that
- Us losing a fairly straight forward lawsuit, can it be counted as a suspicion towards other party's ethical acts?

Nobody was sure about this question, and what to answer for the same. Some people were certain that this wasn't happening.

23. Did you have to give up a case because of insufficient resources? (by insufficient resources I mean manpower)

- Yes
- Not sure if only insufficient manpower was the reason behind us giving up the case

There was a unanimous reply to this question- everybody said that they had, at least once in their history as an employee at their respective firms, had faced this situation when all of their colleagues were in one way or the other, working on documents needed by the court for the trial of which they were a part. They felt that the general contractor would not give up even when the trial involved more money than the disputed amount. They, as a small team could not afford to spend all of their resources in it.

24. What percentage of cases do you receive a favorable verdict, an unfavorable verdict, or settle out of court?

- Its maybe a 50-50
- Not sure about the exact won/lost cases, but we try to settle many by negotiation

Only 14% of the interviewees responded saying that they saw negotiation as a better way to go than litigation. Rest of them weren't exactly sure of the ratio of the won to lost cases. These 14% interviewees expressed their knowledge about negotiation, and as we discussed in the literature review, were aware of the advantages of negotiation or mediation over expensive litigation. The ideal situation would be if all the people are educated about these Alternate Dispute Resolution methods, and can apply those in the future when needed.

25. Have any contract awareness programs been conducted for the employees?

- No
- Do we all need to be aware of contract language, or is it just the project engineer who needs to be well read

Everybody answered no to this question. None of them had been given a training or awareness on contract law at any point in their career with their respective firms.

4.2 Outline of Case Study

The firm where the author worked is a small scale industrial resinous flooring subcontractor, referred as “A” in further discussion. Casting a glance at its history, it was a small, family owned business at its inception. The owners knew their trade well, but did not understand the intricacies of doing business. They wanted to get awarded as much work as possible in their initial years, in order to expand their business. Initially, the way they would start work was, if they met a client who wanted some work done at his facility, they would agree to do it for a lump sum price. After ten years of being in the construction industry, they had learnt quite a few rules of business. Apparently, scanning through contracts properly wasn’t one of them.

In the July of 2011, they agreed to subcontract for the flooring work of the California juvenile correction center, in Stockton, which was under construction. This was through a general contractor, “B”. It was a $1.3 million job, which was one of the biggest projects that they received that year. Work was to commence from September of 2011. Since it was a big facility under construction, proper steps were followed during pre-construction. The owner furnished contracts and the general contractor furnished his subcontracts to be given to the subs. This firm A signed the papers thinking of them as a green signal to proceed with the work. They did not give immense importance to the words of the contract. Until, September

2012, when there was an addition to the scope of work from the owner's side, and firm A was required to put in more labor, material and time into this project than they had planned.

They agreed to the extra work as well, only upon the mere verbal agreement of the contractor on the site. They believed, they would receive payments according to the net payment terms that were originally agreed upon. After all the extra work was finished, which accounted to another $80,000, they asked for the payment from the general contractor, to which he out rightly refused. To their dismay, they learned the reason to be "something they had agreed to at the time of signing the contract". That was when they went back and opened up the pile of contract documents and found the clear wordings, "any extra work ordered from the owner's side either for dissatisfactory performance of the subcontractor or change in owner's needs, would be borne at the subcontractor's expense and payments would not be made through B".

They wanted to file litigation against B, but were advised by an attorney against it, as it was a sure loss. They had to negotiate, and settle for nothing.

CHAPTER 5 DISCUSSION AND CONCLUSION

This chapter discusses the results from the interview and the case study, and tries to apply the knowledge gained from the literature review to come to a result. The interviews were held in the offices during lunch time of the employees. It is assumed that there was no external pressure or effect due to which their answers might not be optimum.

5.1 Discussion of Interview Questions

The questions were basically divided into six categories:

- Personnel questions: If the firm had enough capable, well-read staff to handle the incoming contracts. People working in the firms selected were asked if there was a person appointed to read through, proofread the bids before they went out. Majority of the firms had to say that they did not double-check what went out of their door. It was the estimator's duty to prepare a bid and send it out with the approval of the director of pre-construction. They also said that mostly the project engineer with the

project management team would handle these documents. On the other hand though, many results were also received stating that they didn't need that there was any need seen for the same.

- Method questions: These group of questions involved asking if the people were aware of having the right to raise questions when they saw an incomplete or a doubtful contract, or any question for that matter. People were asked if they signed the contract just to get awarded some work, or if they were precautionary enough to look into the terms and not get drawn towards the scope of work, if there were proper change orders issued, and if they would send their crew on site only after the official paperwork was done. Majority of the firms, to the author's disappointment, agreed that they started work without waiting for the paperwork. When asked more, it was found out that people were not comfortable with the idea of anything getting in between their relationship with the client. Lot of people saw questioning as a way of risking their relationship with the client.
- Checking the authenticity questions: These questions aimed at asking people if they would check more than just their name on the contract. The most important and common mistakes related to the amount listed, schedule provided, payment terms, etc. and if they thought that these were equally important too. Nearly half of the interviewees said that they only checked for names to be correct, assuming, that everything else would be in place.

- Quality questions: If there was any doubtful language, and if someone raised a question for the same. If so, what response did they receive from a GC or the owner was the prime contract provided when asked for. The employees were not aware of the need to be raising questions, and stated that this was out of their scope of work. They wondered what they had to do with the contract language. Only a few people replied saying that they would encourage another meeting and try to solve the doubts mutually. That they would not sign the contract unless satisfied. But unfortunately, very few of the interviewees came up with this answer.
- Legal help questions: They were asked if they knew when to go for legal help and when could they settle it outside of court. Many of the subcontractors, specially, had to say that before they would, they were already dragged into litigations by the stronger GC, with the sole intention of drawing all the money possible. Thus some of them did feel a need to approach an attorney but some were not able to do that financially. Some had to drop out of a lawsuit only because of limited financial resources.

- 5.2 Discussion of Case Study

The author feels that had company A been more vigilant and clever in terms of handling contracts, they would not have landed their foot into this trouble. This was a case of conflict in contract. If they would have paid more attention to the terms of the subcontract, and pointed this out earlier, before the inception of work, the dispute could have been avoided.

When they were asked to elaborate on why and how they felt they ended up in such a situation, they said, “it was a big project that we had received in years, we didn’t want to lose it. Also we had done prior work for this general contractor, so we felt comfortable in relying on the verbal agreement.”
They merely checked their own name on the subcontract before signing it.
There are a couple points to be noted here- first of, small companies like this one are in a constant search for huge projects, because they would expose them in the market and thus help them climb up the corporate ladder. Many companies like to call it as their first big “break”. The author doesn’t feel that there is anything wrong in this line of thought, but one must never throw caution to the wind. In the prospect of getting a big project on their list, they cannot go blind and should be careful. This is why legal education is a must especially for the employees of a small scale firm.
Secondly, the main focus of this research was not to study how the construction industry operates, but this fact could not be hidden after the interviews that there is a lot of verbal agreement going around when it comes to projects. Ultimately this industry is comprised of people, it is important for firms to have good relations among each other in order to stay in business, but a line needs to be drawn when it comes to verbal agreements and paper contracts. Both parties should respect this fact about one another that a contract is an important piece of paper binding them together.

5.3 Conclusion

The author feels that the parties should know that the day they sign a contract, they give birth to a possibility that there could be a dispute and hence before entering into an agreement, they should ask themselves if they would be able to handle the extra money involved in the possible dispute. They are busy learning trade, or learning skill, and don't have time or inclination to do business. Many of the family owned firms had to say this: "If we know our trade well, we keep ourselves away from issues". What they don't know unfortunately is, that the opposite party who they held hands with once, doesn't feel the same way.

The author feels that these interview questions and their results have brought to light a very important yet unspoken fact that lies in the very nature of the construction industry. In construction, it is the people who run the business; it is important for them to maintain good relations for their business to prosper. But for maintaining these relations, many go to the extent of overlooking important details of the project, which later becomes a source of trouble. Many people are not well informed about the legal aspects of construction business, and they only feel the need to educate themselves on the ways of carrying out their trade.

5.4 Recommendation and Next Steps

The study has revealed some uncovered aspects of the construction business industry. If we claim that time and money are the two most important factors of any business as to say, we have to look at all the factors behind these. Are delays in schedules only because of matters on the jobsite- the material not having arrived, labor not ready to work, the preceding activity not being completed on time, and likewise? No, reality is that disputes in construction bring upon a hiatus in the job which becomes difficult to avoid if the personnel are not prepared.

To eliminate such problems that small businesses face, to avoid for them to have a need of an expensive attorney, the author has suggested certain precautionary measures which could go a long way in preventing money from going down the drain, and thus lowering the business failure rate in construction. Broadly, they are listed as below:

- Construction law training boot camps
- New employee training
- Regular quarterly trainings
- Online certificate courses
- Group advising sessions

Experienced professionals in this trade like college professors, project managers and construction attorneys could team up, make focus groups and organize boot camps covering topics involving but not limited to-

- Contract types
- Contractual relationships between contract documents and construction process ‘
- Legal roles, responsibilities and obligations as relating to change orders, addendums, differing site conditions, time & schedule delays resulting in disputes
- General condition clauses
- Last but not the least, dispute resolution methods including negotiations, ADR, and litigation.

The objective of such sessions would be to educate the employees so that they are able to understand common legal terms which are used in contracts. They would be able to understand the effects of changes, react to potential conflicts thus arising, and be able to use negotiation effectively. They would also be able to make this a part of the pre-construction estimate that is prepared for any project- by looking at the initial size and site conditions, they would be able to guess the possible disputes that could arise and be ready to tackle them if needed.

The Associated General Contractors of America have gone a long way in organizing trainings for construction supervisors in all fields, of which

construction law is one (http://store.agc.org/Contracts-And-Construction-Law). The small companies that were a part of the interview process, and such others, can sign up for such online training sessions for their employees and steps can be taken to avoid that which otherwise becomes inevitable.

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APPENDIX

APPENDIX A Interview Questions and Answers

Table A-1 Results of Question 1 from Interview

Question 1: Does your firm have a contracts manager who is well versed with the construction terminology?
Answers:
No
yes
maybe- someone scans through
yes
yes
yes-account manager here reads the contracts
no- we only keep a record of incoming contracts
yes
no
yes
yes we do have a contracts manager
no
yes
no

Table A-1 (continued).

yes we do

yes

probably

yes

no

no

yes

not sure if we do

yes

yes, the President of the company himself goes through the contract, he doesn't trust anyone else to understand the language. He knows a lot

probably

maybe- someone looks over, not sure who does

yes

no

probably yes

yes

no, but our administrative assistant keeps a record of all incoming contracts

yes

no

yes

Table A-1 (continued).

yes

no

yes

yes, our contracts manager does, but he has a degree in accounts, he has just learnt to read contracts by practise

maybe we do but can't say for sure

no

yes

yes

no

probably yes- couple of people with high posts in our firms do point out the important terms in the contracts like bonds, etc, but it is not their main focus of work. There was a time the HR read the contract because they were too busy.

no

yes

yes

no

no

yes

Table A-2 Results of Question 2 from Interview

Question 2: Who reads through the contract before signing? Is it the construction manager/contract manager/accounts manager/HR?
Answers:
Construction manager
Project engineer
President's assistant
Project engineer
Project manager
Construction manager
Contracts manager
Project administrator
Construction manager
Project engineer – it is a team of project engineers and manager who sit down and read the contract before signing
Project manager
Project engineer
Contracts manager
Construction manager
Project administrator
Project engineer
Project manager

Table A-2 (continued).

Project engineer

Construction manager

Construction manager

Project engineer

Project executive, although once there was a case when the HR did go through the contract; it was a typical case because the project executive was

on sick leave

President

Project coordinator

Construction manager

Project manager

Project manager

Project manager

President

Project manager

Project coordinator

Project engineer

Project manager

Project executive

Construction manager

Table A-2 (continued).

Project engineer
President
Project Administrator
Project manager
Project executive
Project co-ordinator
Construction manager
President
Project executive
Project manager
Contracts manager
President
Project engineer
Project manager
Construction manager

Table A-3 Results of Question 3 from Interview

Question 3: On average, how many bid invitations do you receive every month?
Answers:
We receive bid invites every now and then

Table A-3 (continued).

Quite a few

15-20

15

Not sure

Varies each month

15

10

15

20

10

20-25

20

15

15

20

15

20

20

15

15

Related to our trade, or all bids? Related ones: approximately 20

Table A-3 (continued).

15

10

15

20

10

20

15

10

20

15

10

10

15

10

20

20

15

15

20

10

10

Table A-3 (continued).

15-20
20
15-20
10
10
15

Table A-4 Results of Question 4 from Interview

Question 4: Who proofreads the bid proposals before they go out of the door? (Sometimes we ourselves use elusive language giving the General Contractor or owner a chance to get back at us).
Answers:
The project management team
Project Manager
The project management team
Project Manager
The project management team
Project Engineer
Project Manager
Project Manager
Project Engineer

Table A-4 (continued).

President

The project management team

Project Engineer

Project Manager

Project Engineer

The project management team

Estimator

Project Engineer

Project Engineer

Project Manager

The project management team

Project Manager

President

Project Engineer

Project Engineer

Project Manager

The project management team

Project Engineer

The project management team

Project Engineer

Project Engineer

Table A-4 (continued).

President
Project Manager
Project Manager
The project management team
Project Manager
The project management team
Project Manager
The project management team
President
Project Engineer
The project management team
Project Manager
The project management team
Estimator
The project management team
The project management team
Estimator
Project Engineer
The project management team
Project Manager

Table A-5 Results of Question 5 from Interview

Question 5: What do you do if you find a conflict in the language- a mysterious term/sentence that you did not much understand? Does anyone point out that doubt in the contract?
Answers:
Causal discussion with colleagues
We do try to inquire, but don't wait for an answer to proceed with our work
No we don't give it much attention
Discussion with co-workers
We ignore a term we don't understand as it does not affect our work
Discussion with colleagues
We ignore a term we don't understand as it does not affect our work
If we raise a doubt, we feel that we stand a chance of losing the work if the GC smells disinclination on our part
We do try to inquire, but don't wait for an answer to proceed with our work
No we don't give it much attention
Discussion with co-workers
We ignore a term we don't understand as it does not affect our work
No we don't give it much attention
We ignore a term we don't understand as it does not affect our work
Discussion with colleagues
We do try to inquire, but don't wait for an answer to proceed with our work

Table A-5 (continued).

Discussion with team mates

We ignore a term we don't understand as it does not affect our work

No we don't give it much attention

We don't think it needs to be addressed as it does not affect our work

Discussion with colleagues

Discussion with co-workers

We take it to the President of the company. If he can't help us we contact the GC

No we don't give it much attention

We don't want to risk losing work so we prefer to go ahead with the part we have understood. We feel that if there is a discrepancy, it can be solved later

We ignore a term we don't understand as it does not affect our work

If we raise a doubt, we feel that we stand a chance of losing the work if the GC smells disinclination on our part

We do try to inquire, but don't wait for an answer to proceed with our work

Causal discussion with colleagues

Small things are ignored but big doubts are cleared by a call with the GC or owner's rep

We do try to inquire, but don't wait for an answer to proceed with our work

We don't want to risk losing work so we prefer to go ahead with the part we have understood. We feel that if there is a discrepancy, it can be solved later

Table A-5 (continued).

We ignore a term we don't understand as it does not affect our work

Discussion with colleagues

Discussion with co-workers

We had not realized the importance of delving into these matters until we fell trap of one and lost a lot of money in a lawsuit. After that, we have had a trained professional come over and provide technical training for our employees

We ignore a term we don't understand as it does not affect our work

No we don't give it much attention

We do try to inquire, but don't wait for an answer to proceed with our work

We ignore a term we don't understand as it does not affect our work

Discussion with co-workers

We ignore a term we don't understand as it does not affect our work

Discussion with colleagues

We ignore a term we don't understand as it does not affect our work

We take it to the President of the company. If he can't help us we contact the GC

We ignore a term we don't understand as it does not affect our work

Discussion with co-workers

Discussion with colleagues

No we don't give it much attention, probably it does need more attention

Table A-5 (continued).

Though
Discussion with colleagues

Table A-6 Results of Question 6 from Interview

Question 6: What response do you receive when you ask the GC or the owner about some doubtful language in the contract? Does he address the questions or does he try to avoid answering them?
Answers:
We don't call back
We've had mixed experiences with calling back the GC, sometimes we get a good response and sometimes are doubts are not addressed to properly.
We don't inquire back
We ask but sometimes we get a clear response, sometimes we don't
We are not sure about it
Seldom do we call back and ask- we don’t mean to negotiate on the contractual terms. A contract, for us, is like a green signal to proceed with our work at the jobsite
We arrange for a meeting and we haven't had a clear response from them
We don't inquire back
We arrange for a meeting and we haven't had a clear response from them
We are not sure about it

Table A-6 (continued).

We are not sure about it

We call the GC and then the issue is clarified

We've had mixed experiences with calling back the GC, sometimes we get a good response and sometimes are doubts are not addressed to properly.

We are not sure about it

We arrange for a meeting

We arrange for a meeting and we haven't had a clear response from them

We arrange for a meeting and we haven't had a clear response from them

We arrange for a meeting and we haven't had a clear response from them

We don't inquire back

We are not sure about it

We've had mixed experiences with calling back the GC, sometimes we get a good response and sometimes are doubts are not addressed to properly.

We arrange for a meeting and we haven't had a clear response from them

We are not sure about it

We are not sure about it

We arrange for a meeting and we haven't had a clear response from them

We arrange for a meeting and we haven't had a clear response from them

We don't inquire back

We've had mixed experiences with calling back the GC, sometimes we get a good response and sometimes are doubts are not addressed to properly.

Table A-6 (continued).

We arrange for a meeting and we haven't had a clear response from them

We are not sure about it

Seldom do we call back and ask- we don’t mean to negotiate on the contractual terms. A contract, for us, is like a green signal to proceed with our work at the jobsite

We don't inquire back

We've had mixed experiences with calling back the GC, sometimes we get a good response and sometimes are doubts are not addressed to properly.

We don't inquire back

We are not sure about it

We arrange for a meeting and we haven't had a clear response from them

Seldom do we call back and ask- we don’t mean to negotiate on the contractual terms. A contract, for us, is like a green signal to proceed with our work at the jobsite

We are not sure about it

We arrange for a meeting and we haven't had a clear response from them

Seldom do we call back and ask- we don’t mean to negotiate on the contractual terms. A contract, for us, is like a green signal to proceed with our work at the jobsite

We are not sure about it

We've had mixed experiences with calling back the GC, sometimes we get a

Table A-6 (continued).

good response and sometimes are doubts are not addressed to properly.

We don't inquire back

We've had mixed experiences with calling back the GC, sometimes we get a good response and sometimes are doubts are not addressed to properly.

We arrange for a meeting and we haven't had a clear response from them

We are not sure about it

We arrange for a meeting and we haven't had a clear response from them

We've had mixed experiences with calling back the GC, sometimes we get a good response and sometimes are doubts are not addressed to properly.

We are not sure about it

We are not sure about it

Table A-7 Results of Question 7 from Interview

Question 7: If needed, did he eagerly change the wordings where you would feel comfortable signing the contract with him?
Answers:
Rarely
No
No
Whenever there is a change required, it never happens eagerly. If at all a change is agreed to, there usually must have been several conversations

Table A-7 (continued).

before that. At times we try to avoid all the hassle and thus don’t want to bring up the issue.

Nobody has ever been happy about change

Rarely

No

Nobody has ever been happy about change

Rarely

No

Whenever there is a change required, it never happens eagerly. If at all a change is agreed to, there usually must have been several conversations before that. At times we try to avoid all the hassle and thus don’t want to bring up the issue.

Nobody has ever been happy about change

Rarely

Rarely

Rarely

No

Whenever there is a change required, it never happens eagerly. If at all a change s agreed to, there usually must have been several conversations before that. At times we try to avoid all the hassle and thus don’t want to bring up the issue.

Table A-7 (continued).

Nobody has ever been happy about change

Rarely

Rarely

No

Nobody has ever been happy about change

Whenever there is a change required, it never happens eagerly. If at all a change is agreed to, there usually must have been several conversations before that. At times we try to avoid all the hassle and thus don't want to bring up the issue.

Rarely

Nobody has ever been happy about change

Rarely

Rarely

No

Nobody has ever been happy about change

No

Rarely

Nobody has ever been happy about change

Rarely

No

Rarely

Table A-7 (continued).

No

Rarely

Nobody has ever been happy about change

Rarely

Rarely

No

Nobody has ever been happy about change

Rarely

No

Nobody has ever been happy about change

Whenever there is a change required, it never happens eagerly. If at all a change is agreed to, there usually must have been several conversations before that. At times we try to avoid all the hassle and thus don’t want to bring up the issue.

Rarely

Nobody has ever been happy about change

No

Whenever there is a change required, it never happens eagerly. If at all a change is agreed to, there usually must have been several conversations before that. At times we try to avoid all the hassle and thus don’t want to bring up the issue.

Table A-8 Results of Question 8 from Interview

Question 8: How often do you sign the doubtful contract just to get the work awarded and make “some” money out of it?
Answers:
Very often
Sometimes
Sometimes
Quite often
On big projects
Sometimes
Quite often
Sometimes
Sometimes
Quite often
Sometimes
Quite often
Sometimes
Depends on how our history has been with the client
Quite often
Sometimes
Sometimes
Quite often

Table A-8 (continued).

Quite often

Sometimes

Quite often

Quite often

Sometimes

We try to be cautious, and don't go for such projects. Although it happens rarely because why would we want to miss out on money

Quite often

Sometimes

Quite often

Quite often

Quite often

Sometimes

Sometimes

Sometimes

Quite often

Sometimes

Quite often

Quite often

Quite often

Sometimes

Table A-8 (continued).

Quite often
Sometimes
Sometimes
Sometimes
Quite often
Sometimes
Quite often
Quite often
Sometimes
Sometimes
Quite often
Quite often

Table A-9 Results of Question 9 from Interview

Question 9: Were proper change orders/ extra work orders issued when/if needed?
Answers:
Yes
No, often times we start work and wait for the paper to be issued
No, often times we start work and wait for the paper to be issued
Yes

Table A-9 (continued).

Yes

No, often times we start work and wait for the paper to be issued

If the history with that client has been good, we don't hesitate to start the work, that's how we can keep the relationships in the industry going

Yes

No, often times we start work and wait for the paper to be issued

No, often times we start work and wait for the paper to be issued

Yes

Yes

Yes

No, often times we start work and wait for the paper to be issued

No, often times we start work and wait for the paper to be issued

Yes

No, often times we start work and wait for the paper to be issued

Yes

No, often times we start work and wait for the paper to be issued

Yes

No, often times we start work and wait for the paper to be issued

If the history with that client has been good, we don't hesitate to start the work, that's how we can keep the relationships in the industry going

If the history with that client has been good, we don't hesitate to start the

Table A-9 (continued).

work, that's how we can keep the relationships in the industry going

Yes

If the history with that client has been good, we don't hesitate to start the work, that's how we can keep the relationships in the industry going

Yes

No, often times we start work and wait for the paper to be issued

Yes

Yes

Yes

No, often times we start work and wait for the paper to be issued

Yes

No, often times we start work and wait for the paper to be issued

No, often times we start work and wait for the paper to be issued

No, often times we start work and wait for the paper to be issued

Yes

No, often times we start work and wait for the paper to be issued

Yes

No, often times we start work and wait for the paper to be issued

If the history with that client has been good, we don't hesitate to start the work, that's how we can keep the relationships in the industry going

Yes

Table A-9 (continued).

No, often times we start work and wait for the paper to be issued
We start work and the official document is issued later
Yes
No, often times we start work and wait for the paper to be issued
If the history with that client has been good, we don't hesitate to start the work, that's how we can keep the relationships in the industry going
Yes
Yes
No, often times we start work and wait for the paper to be issued
Yes

Table A-10 Results of Question 10 from Interview

Question 10: Who did you deploy to supervise the work at the site?
Answers:
Foreman
Superintendent
Foreman
Project manager
Superintendent
Foreman
Superintendent

Table A-10 (continued).

Superintendent

Foreman

Superintendent

Foreman

Superintendent

Project manager

Foreman

Head of the crew in absence of project manager

Superintendent

Superintendent

Foreman

Superintendent

Superintendent

Foreman

Foreman

Superintendent

Superintendent

Project manager

Superintendent

Foreman

Foreman

Table A-10 (continued).

Superintendent

Project manager

Foreman

Superintendent

Superintendent

Superintendent

Foreman

Superintendent

Foreman

Superintendent

Head of the crew in absence of project manager

Superintendent

Superintendent

Foreman

Foreman

Superintendent

Foreman

Superintendent

Superintendent

Foreman

Superintendent

Table A-10 (continued).

Superintendent

Table A-11 Results of Question 11 from Interview

Question 11: Was there an authority to handle questions on the contract?
Answers:
No, never
No, never
No
No
No
No
No, never
No
No
No, never
No, never
No
No
No
No
No

Table A-11 (continued).

No

No

No

No

No

No

No

No, never

No

No

No

No

No, never

No

No

No

No

No

No, never

No

No

Table A-11 (continued).

No

No

No, what is the need of the contract to reach the jobsite- its dealt with in the office

No

No

No

No

No, never

No

No

No

No

No, never

Table A-12 Results of Question 12 from Interview

Question 12: Does the subcontract include a “pass through” clause that incorporated the prime contract requirements into the subcontract?
Answers:
At times, yes
No
No

Table A-12 (continued).

No

At times, yes

No

At times, yes

No

No

No

At times, yes

No

No

At times, yes

No

At times, yes

No

No

No

At times, yes

No

No

No

At times, yes

Table A-12 (continued).

No

No

No

No

At times, yes

No

No

No

No

No

No

At times, yes

No

At times, yes

No

No

No

No

No

No

No

Table A-12 (continued).

No
No
No
No
At times, yes

Table A-13 Results of Question 13 from Interview

Question 13: Did the contractor provide a copy of the prime contract with the subcontract? If not, did the general contractor provide it when requested?
Answers:
We don't inquire about the subcontract
No, but it was provided when we asked for it
Yes it is given with the subcontracts
We don't inquire about the subcontract
We receive only our division of the subcontract, and we do not request for the prime contract as we don't feel the need to go through it
We don't inquire about the subcontract
We don't inquire about the subcontract
Yes it is given with the subcontracts
Yes it is given with the subcontracts
We don't inquire about the subcontract

Table A-13 (continued).

Yes, if we request, we do receive the prime contract, at times with a lot of delay. But it is not provided with the subcontract

We don't inquire about the subcontract

We don't inquire about the subcontract

Yes it is given with the subcontracts

We don't inquire about the subcontract

Yes, if we request, we do receive the prime contract, at times with a lot of delay. But it is not provided with the subcontract

We don't inquire about the subcontract

We don't inquire about the subcontract

Yes it is given with the subcontracts

We don't inquire about the subcontract

Yes it is given with the subcontracts

We don't inquire about the subcontract

Yes it is given with the subcontracts

We don't inquire about the subcontract

Yes it is given with the subcontracts

We don't inquire about the subcontract

Yes, if we request, we do receive the prime contract, at times with a lot of delay. But it is not provided with the subcontract

We don't inquire about the subcontract

Table A-13 (continued).

We don't inquire about the subcontract

Yes it is given with the subcontracts

We don't inquire about the subcontract

Yes it is given with the subcontracts

We don't inquire about the subcontract

Yes it is given with the subcontracts

We don't inquire about the subcontract

We don't inquire about the subcontract

Yes, if we request, we do receive the prime contract, at times with a lot of delay. But it is not provided with the subcontract

We don't inquire about the subcontract

Yes it is given with the subcontracts

Yes it is given with the subcontracts

We don't inquire about the subcontract

Yes, if we request, we do receive the prime contract, at times with a lot of delay. But it is not provided with the subcontract

Yes it is given with the subcontracts

We don't inquire about the subcontract

Yes it is given with the subcontracts

Yes, if we request, we do receive the prime contract, at times with a lot of delay. But it is not provided with the subcontract

Table A-13 (continued).

We don't inquire about the subcontract
Yes it is given with the subcontracts
We don't inquire about the subcontract
Yes, if we request, we do receive the prime contract, at times with a lot of delay. But it is not provided with the subcontract

Table A-14 Results of Question 14 from Interview

Question 14: Do you check that the subcontract amount is the same as the bid amount?
Answers:
Yes
Yes we always try to
Yes we always make sure that we check
Yes we try to check because there have been cases in the past where we overlooked and there was a problem
Yes
Yes
Yes
Yes we always try to
Yes we always try to
Yes we always try to

Table A-14 (continued).

Yes we always try to

Yes we always try to

Yes we always check that

Yes we always check that

Yes we always try to

Yes

Yes we always try to

Yes we always try to

Yes

Yes we always try to

Yes we always try to

Yes

Yes

Yes

Yes we always try to

Yes

Yes we always try to

Yes we always try to

Yes we always try to

Yes we always try to

Yes

Table A-14 (continued).

Yes we always try to
Yes
Yes
Yes
Yes we always try to
Yes we always try to
Yes
Yes we always try to
Yes
Yes
Yes
Yes
Yes we always try to
Yes
Yes we always try to
Yes we always try to
Yes
Yes
Yes

Table A-15 Results of Question 15 from Interview

Question 15: Was any work at the site started without receiving a subcontract, on the basis of a verbal agreement?
Answers:
Yes, since we have had good past relations with the client, we do go forward the work
If we know the client well enough, we go by the word
No, we always wait for the contract/ purchase order to come in first
If we know the client well enough, we go by the word
Yes, since we have had good past relations with the client, we do go forward with the work
If we know the client well enough, we go by the word
No, we always wait for the contract/ purchase order to come in first
If we know the client well enough, we go by the word
No, we always wait for the contract/ purchase order to come in first
Yes, since we have had good past relations with the client, we do go forward with the work
No, we always wait for the contract/ purchase order to come in first
If we know the client well enough, we go by the word
No, we always wait for the contract/ purchase order to come in first
If we know the client well enough, we go by the word
Yes, since we have had good past relations with the client, we do go forward

Table A-15 (continued).

with the work

No, we always wait for the contract/ purchase order to come in first

If we know the client well enough, we go by the word

No, we always wait for the contract/ purchase order to come in first

No, we always wait for the contract/ purchase order to come in first

If we know the client well enough, we go by the word

Yes, since we have had good past relations with the client, we do go forward with the work

No, we always wait for the contract/ purchase order to come in first

Yes, since we have had good past relations with the client, we do go forward with the work

Yes, since we have had good past relations with the client, we do go forward with the work

No, we always wait for the contract/ purchase order to come in first

If we know the client well enough, we go by the word

Yes, since we have had good past relations with the client, we do go forward with the work

If we know the client well enough, we go by the word

No, we always wait for the contract/ purchase order to come in first

If we know the client well enough, we go by the word

No, we always wait for the contract/ purchase order to come in first

Table A-15 (continued).

Yes, since we have had good past relations with the client, we do go forward with the work

No, we always wait for the contract/ purchase order to come in first

Yes, since we have had good past relations with the client, we do go forward with the work

No, we always wait for the contract/ purchase order to come in first

Yes, since we have had good past relations with the client, we do go forward with the work

No, we always wait for the contract/ purchase order to come in first

Yes, since we have had good past relations with the client, we do go forward with the work

If we know the client well enough, we go by the word

No, we always wait for the contract/ purchase order to come in first

Yes, since we have had good past relations with the client, we do go forward with the work

Yes, since we have had good past relations with the client, we do go forward with the work

No, we always wait for the contract/ purchase order to come in first

If we know the client well enough, we go by the word

Yes, since we have had good past relations with the client, we do go forward with the work

Table A-15 (continued).

No, we always wait for the contract/ purchase order to come in first
Yes, since we have had good past relations with the client, we do go forward with the work
No, we always wait for the contract/ purchase order to come in first
No, we always wait for the contract/ purchase order to come in first
If we know the client well enough, we go by the word

Table A-16 Results of Question 16 from Interview

Question 16: Were any changes agreed to but not documented in writing?
Answers:
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Mostly we try to document everything, but yes there have been cases when small changes were just done on someone's word, and there was no written documentation made
Yes

Table A-16 (continued).

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Mostly we try to document everything, but yes there have been cases when small changes were just done on someone’s word, and there was no written documentation made

Yes

Yes

Table A-16 (continued).

Mostly we try to document everything, but yes there have been cases when small changes were just done on someone’s word, and there was no written documentation made

Mostly we try to document everything, but yes there have been cases when small changes were just done on someone’s word, and there was no written documentation made

Yes

Yes

Yes

Mostly we try to document everything, but yes there have been cases when small changes were just done on someone’s word, and there was no written documentation made

Mostly we try to document everything, but yes there have been cases when small changes were just done on someone’s word, and there was no written documentation made

Mostly we try to document everything, but yes there have been cases when small changes were just done on someone’s word, and there was no written documentation made

Yes

Yes

Mostly we try to document everything, but yes there have been cases when

Table A-16 (continued).

small changes were just done on someone's word, and there was no written documentation made
Yes
Yes
Yes
Mostly we try to document everything, but yes there have been cases when small changes were just done on someone's word, and there was no written documentation made
Yes
Yes
Yes
Yes
Yes
Yes
Yes

Table A-17 Results of Question 17 from Interview

Question 17: Does the relationship with a past customer affect your decision of questioning a contract?
Answers:
Yes

Table A-17 (continued).

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes when we have a good relation with our clients, we don't only go by the words. Yes if its sth related to the scope of work which we don't understand,

Table A-17 (continued).

we do ask but if its about say the payment terms, or the insurance, or safety, etc,

Yes

Yes

Yes

Yes

Yes

Yes

Yes, because basically we don't want anything to affect our return business with the client

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Table A-17 (continued).

Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes

Table A-18 Results of Question 18 from Interview

Question 18: Has any work been discussed /approved over meetings involving alcohol?
Answers:
Don't know
Not completely sure about this
Maybe, can't say for sure
Work over alcohol? No
Maybe

Table A-18 (continued).

Maybe

Maybe

Maybe

Maybe

We have after office happy hours and we do discuss work

We have after office happy hours and we do discuss work

Don't know

Don't know

Don't know

Don't know

Sometimes we make verbal agreements about work, be it during office hours, on the site, or outside of office

We have after office happy hours and we do discuss work

We have after office happy hours and we do discuss work

Maybe

We have after office happy hours and we do discuss work

We have after office happy hours and we do discuss work

We have after office happy hours and we do discuss work

We have after office happy hours and we do discuss work

Sometimes

Maybe

Table A-18 (continued).

Maybe

Maybe

Maybe

Don't know

Don't know

Don't know

Don't know

Don't know

Don't know

Don't know

Don't know

Don't know

Maybe

Maybe

Maybe

Maybe

Maybe

We have after office happy hours and we do discuss work

Don't know for sure

Don't know for sure

Don't know for sure

Table A-18 (continued).

Don't know for sure
Don't know for sure
We have after office happy hours and we do discuss work
Maybe

Table A-19 Results of Question 19 from Interview

Question 19: In the case when legal help was required, did you have a lawyer of your own firm or did you have to approach one from outside?
Answers:
Yes we have a lawyer for our firm
Yes we have a lawyer for our firm
We did not have a lawyer
Yes we have a lawyer for our firm
Yes we have a lawyer for our firm
We did not have a lawyer
Yes we have a lawyer for our firm
We did not have a lawyer
Yes we have a lawyer for our firm
We had a lawyer but had to seek external help
Yes we have a lawyer for our firm
Yes we have a lawyer for our firm

Table A-19 (continued).

We did not have a lawyer

Yes we have a lawyer for our firm

We did not have a lawyer

Yes we have a lawyer for our firm

Yes we have a lawyer for our firm

We had a lawyer but had to seek external help

Yes we have a lawyer for our firm

We did not have a lawyer

Yes we have a lawyer for our firm

Yes we have a lawyer for our firm

We did not have a lawyer

Yes we have a lawyer for our firm

We had a lawyer but had to seek external help

Yes we have a lawyer for our firm

We did not have a lawyer

Yes we have a lawyer for our firm

We did not have a lawyer

Yes we have a lawyer for our firm

Yes we have a lawyer for our firm

Yes we have a lawyer for our firm

Yes we have a lawyer for our firm

Table A-19 (continued).

We had a lawyer but had to seek external help
Yes we have a lawyer for our firm
Yes we have a lawyer for our firm
Yes we have a lawyer for our firm
Yes we have a lawyer for our firm
Yes we have a lawyer for our firm
Yes we have a lawyer for our firm
We did not have a lawyer
Yes we have a lawyer for our firm
Yes we have a lawyer for our firm
We did not have a lawyer
Yes we have a lawyer for our firm
Yes we have a lawyer for our firm
We had a lawyer but had to seek external help
Yes we have a lawyer for our firm
We did not have a lawyer
We had a lawyer but had to seek external help

Table A-20 Results of Question 20 from Interview

Question 20: Did you have to drop a lawsuit because you didn't have enough money for the attorney fee?
Answers:
Yes
Yes
Yes
Yes
Yes because the attorneys were charging us a bomb and it was getting difficult for us
Yes
Yes
No it wasn't a reason for us
No it wasn't a reason for us
No it wasn't a reason for us
No it wasn't a reason for us
Yes because the attorneys were charging us a bomb and it was getting difficult for us
Yes because the attorneys were charging us a bomb and it was getting difficult for us
Yes it was not only the attorney fee, but the cost of litigation was also becoming overwhelming for us

Table A-20 (continued).

Yes

No it wasn't a reason for us

Yes

Yes

Yes

Yes

Yes

No

No

No

No

No

No

No

No

No

No

No, fortunately that wasn't one of the reasons that we lost

Yes

Yes

Yes

Table A-20 (continued).

Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes

Table A-21 Results of Question 21 from Interview

Question 21: Did you have a feeling that there were unethical methods involved to win the case?
Answers:
No

Table A-21 (continued).

No

No

Yes

Yes

Yes

Yes

No, we are pretty sure there weren't

No

No

No

No

No

No

No

No

We had a doubt regarding methods which the other party was using

Yes

Yes

Yes

Yes we were doubtful

No

Table A-21 (continued).

No

No

No

No

Yes

No

No

No

No

No

No

No

No

Yes

Yes

Yes

Yes

No

No

No

No

Table A-21 (continued).

No
No
No
No
Yes
Yes
No

Table A-22 Results of Question 22 from Interview

Question 22: Did you also feel that the opponent was paying his lawyer to destroy evidence which would make him lose?
Answers:
No
No
Certainly not
Certainly not
Certainly not
Certainly not
Certainly not
Certainly not
Certainly not

Table A-22 (continued).

No

No

No

No

No

No

Not sure

Not sure

Not sure

Not sure

Not sure

Not sure

Not sure

Not sure about that

Not sure about that

Certainly not

Certainly not

Certainly not

Certainly not

Certainly not

Certainly not

Table A-22 (continued).

Certainly not

Certainly not

Certainly not

Certainly not

Certainly not

Certainly not

Us losing a fairly straight forward lawsuit, can it be counted as a suspicion towards other party’s ethical acts

Maybe

Maybe

Maybe

Maybe

Maybe

Maybe

Maybe

Maybe

Maybe

Maybe

Maybe

No

No

Not sure

Table A-23 Results of Question 23 from Interview

Question 23: Did you have to give up a case because of insufficient resources? (by insufficient resources I mean manpower)
Answers:
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes, couple of times
No
No
No
No

Table A-23 (continued).

No

No

Yes

Yes

Yes

Yes, there was a point when all of our office staff was working on this one lawsuit in one way or the other

Twice

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes, there was a point when all of our office staff was working on this one

Table A-23 (continued).

lawsuit in one way or the other
Yes, there was a point when all of our office staff was working on this one lawsuit in one way or the other
Yes, there was a point when all of our office staff was working on this one lawsuit in one way or the other
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes
Yes

Table A-24 Results of Question 24 from Interview

Question 24: What percentage of cases do you receive a favorable verdict, an unfavorable verdict, or settle out of court?
Answers:
50-50

Table A-24 (continued).

50-50

50-50

50-50

50-50

50-50

We prefer using negotiation methods instead of litigation

50-50

50-50

50-50

50-50

50-50

50-50

50-50

50-50

50-50

We try to use settle many by negotiation

50-50

50-50

50-50

We try to use negotiation

50-50

Table A-24 (continued).

50-50

Negotiation is what we prefer

50-50

50-50

50-50

50-50

50-50

We prefer using negotiation methods instead of litigation

We prefer using negotiation methods instead of litigation

We prefer using negotiation methods instead of litigation

50-50

50-50

50-50

50-50

50-50

50-50

50-50

50-50

We prefer using negotiation methods instead of litigation

We prefer using negotiation methods instead of litigation

We prefer using negotiation methods instead of litigation

Table A-24 (continued).

We prefer using negotiation methods instead of litigation
50-50
50-50
50-50
We prefer using negotiation methods instead of litigation
We prefer using negotiation methods instead of litigation
We prefer using negotiation methods instead of litigation

Table A-25 Results of Question 25 from Interview

Question 25: Have any contract awareness programs been conducted for the employees?
Answers:
No
No
No
No
No
No
No
No
No

Table A-25 (continued).

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

Table A-25 (continued).

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No

No